



The Commonwealth of Massachusetts

Office of Campaign & Political Finance

One Ashburton Place, Boston 02108

727-8352

*Dennis J. Duffin
Director*

May 5, 1988
AO-88-15

Jodi D'Urso
Executive Director
D'Amico Committee
195 State Street, 5th Floor
Boston, MA 02109

Dear Ms. D'Urso:

This letter is in response to your recent request for an advisory opinion on the following issues:

1. May the Massachusetts Senior Action Council, Inc. use Gerard D'Amico's name in a fundraising letter?
2. May the D'Amico Committee give its contributors list to the Massachusetts Senior Action Council, Inc.?

You have stated that Mr. D'Amico is a state employee, who is also a member of the board of directors of the Massachusetts Senior Action Council, Inc. (the "Council"). The Council is a non-profit organization, organized under M.G.L. c. 180 for the promotion of the social welfare and economic well-being of the elderly in Massachusetts. The Council undertakes no political financing activity.

You have stated that the D'Amico Committee is unable to value the mailing list, but the cost of accessing and printing such list through Political Data Services would be \$90, which would be paid directly by the Council to Political Data Services.

I. Use of Public Employee's Name in Fundraising Letter.

Section 13 of M.G.L. c.55 states, in pertinent part: "No person employed for compensation ... by the commonwealth ... shall directly or indirectly solicit ... any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office, or of any political committee, or for any political purpose whatever ..."

Jodi D'Urso, Executive Director
May 5, 1988
Page 2

This office is of the opinion that, provided the Council is not seeking to raise monies for the political campaign purposes of any candidate, or any such candidate's committee, or for any other political purpose, Mr. D'Amico would not be prohibited from participating in fundraising activities on behalf of the Council, including lending his name to a fundraising letter, pursuant to section 13 of M.G.L. c.55.

II. Donation of Contributors List to a Charitable Organization.

Section 6 of M.G.L. c.55 states, in pertinent part: "A political committee organized or operating on behalf of a candidate for the office of ... lieutenant governor ... may ... expend money or other things of value for reasonable and necessary expenses directly related to the campaign of the candidate ...".

Section 2.05(2) of 970 C.M.R. details those expenditures which are permissible pursuant to section 6 of M.G.L. c.55. Included are charitable contributions, for which the regulation provides the following description:

"(w) Charitable contributions, provided that the expenditure is clearly made from funds of the political committee other than those funds received as public financing pursuant to M.G.L. c.55A, and provided further that all of the following requirements are met:

1. The contribution is made to an entity which is subject to either M.G.L. c.12, s. 8(f), M.G.L. c.67 or M.G.L. c 180;
2. Neither the candidate, treasurer, or any official of the political committee is a trustee, officer, principal or beneficiary or involved in any manner in the operations of said entity;
3. Neither the candidate, treasurer, nor any official of the political committee is related by consanguinity or affinity to any trustee, officer, principal or beneficiary of said entity;
4. Making such charitable contributions is a usual and customary practice of that political committee;
5. The candidate or political committee will receive publicity and foster political goodwill towards the particular campaign during which the contribution is made as a result of making the contribution.

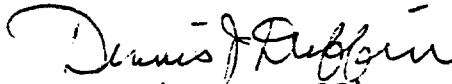
Jodi D'Urso, Executive Director
May 5, 1988
Page 3

Clearly, the D'Amico Committee's contributor list is "a thing of value" as contemplated by section 6 of M.G.L. c.55 and may be transferred in accordance therewith. This office is of the opinion that although the Council is a non-profit corporation organized pursuant to M.G.L. c.180, and as such is a qualifying entity under section 2.05 (2)(w) of 970 C.M.R., because Mr. D'Amico is a member of the board of directors of the Council, and hence involved in the operations of such entity, the D'Amico Committee may not give its contributors list to the Council.

The opinions contained herein have been rendered solely on the basis of representations made by you, and no independent investigation of any activities described herein has been made.

If you have any further questions, please do not hesitate to contact this office.

Very truly yours,


Dennis J. Duffin
Director

DJD/ba